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February 11, 2021

RCRA Docket
Office of Land and Emergency Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RE: Docket ID No. EPA-HQ-OLEM-2020-0107; FRL-10015-46-OLEM

Dear Sir/Madam:

The Solid Waste Disposal and Conversion Task Force within the Materials Management Subcommittee of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) appreciates the opportunity to provide comments on the U.S. Environmental Protection Agency (EPA) Advance Notice of Proposed Rulemaking (ANPRM), Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments, published in the Federal Register on October 14, 2020 (85 FR 65015). These comments have not been reviewed or adopted by the ASTSWMO Board of Directors. In addition, individual State or Territorial solid waste programs may also provide comments based on their own perspectives and experiences.

ASTSWMO is an association representing the waste management and remediation programs of the 50 States, five Territories and the District of Columbia (States). Our membership includes State waste program experts in the management and regulation of solid and hazardous waste.

In general, the ASTSWMO Solid Waste Disposal and Conversion Task Force supports EPA's development of rules and criteria for Legacy CCR Surface Impoundments in light of the August 21, 2018 opinion by the U.S. Court of Appeals for the District of Columbia Circuit in *Utility Solid Waste Activities Group, et al v. EPA* that vacated and remanded the exemption for inactive surface impoundments at inactive power plants from regulation.

It is the opinion of the Task Force that many of the questions asked in the ANPRM will be best addressed by utilities or property owners with units that may be affected by rulemakings to define and regulate legacy CCR units and individual States who are aware of such legacy units. When considering those responses and developing a proposed regulation, we encourage EPA to keep in mind that the regulation proposed needs to include definitions, design, and operational requirements that are measurable both by States who may permit, inspect, and make compliance determinations as well as by facilities who will need to close and monitor units within the rule requirements.

Additionally, the Task Force requests that EPA update guidance and procedures corresponding to any rule revisions so that States that choose to adopt or modify State permitting programs to include legacy CCR surface impoundments can do so seamlessly.

In conclusion, the Solid Waste Disposal and Conversion Task Force appreciates the opportunity to work with EPA on the development of criteria for legacy CCR surface impoundments and looks forward to providing additional input on a future proposed rule.

If you have any questions about these comments, please contact Kerry Callahan, ASTSWMO Senior Program Manager, at 202-640-1062 or kerryc@astswmo.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kathryn Perszyk", enclosed in a thin black rectangular border.

Kathryn Perszyk (VA), Chair
Solid Waste Disposal and Conversion Task Force
ASTSWMO Materials Management Subcommittee